

1 EDMUND G. BROWN JR.
Attorney General of the State of California
2 ALBERT NORMAN SHELDEN,
Senior Assistant Attorney General
3 MARGARET REITER
Supervising Deputy Attorney General
4 JOHN G. DONHOFF, JR. (State Bar # 91732)
Deputy Attorney General
5 California Department of Justice
455 Golden Gate Ave., Suite 11000
6 San Francisco, California 94102
Telephone: (415) 703-1117
7 Facsimile: (415) 703-5480

8 Attorneys for Plaintiff,
People of the State of California
9

10 SUPERIOR COURT OF CALIFORNIA
11 COUNTY OF SAN FRANCISCO
12

13 **THE PEOPLE OF THE STATE OF CALIFORNIA,**
14
Plaintiff,
15
v.
16
AT&T MOBILITY LLC,
17
Defendant.
18

Case No.

**FINAL JUDGMENT AND
PERMANENT INJUNCTION**

19
20 Plaintiff, the People of the State of California through Edmund G. Brown Jr., Attorney
21 General and Deputy Attorney General John G. Donhoff, Jr., and Defendant AT&T Mobility
22 LLC, a Delaware corporation, appearing through counsel, having stipulated to the entry of this
23 Judgment without the taking of proof or trial; this Judgment not constituting evidence of or an
24 admission regarding any issue alleged in the Complaint; the Court having considered the
25 Stipulation for Entry of Judgment executed by the parties and filed herewith; and good cause
26 appearing,

27 **IT IS HEREBY ORDERED, ADJUDGED AND DECREED** as follows:

28 JURISDICTION AND VENUE

1 successors, assigns, and all persons acting in concert or participating with any of them
2 (collectively, the “Defendants”), in connection with charges billed to a subscriber in California.

3 10. All injunctive relief under this Judgment, including all relief described in paragraph
4 11, is ordered pursuant to California Business and Professions Code sections 17203.

5 11. Defendants are immediately and permanently enjoined from directly or indirectly
6 doing any of the acts set forth in this paragraph:

7 A. in connection with a disputed charge, (1) failing to act in accordance with the
8 provisions of Public Utilities Code section 2890(d)(2)(D) and (e), or (2) expanding a
9 subscriber’s obligations or limiting a subscriber’s rights beyond those provisions;

10 B. failing to furnish the information described in this subparagraph 11.B. (1) through (5),
11 below, clearly and conspicuously (i) with each subscriber agreement; (ii) in the first
12 communication with a subscriber who initially disputes a charge in writing unless the dispute is
13 resolved in the first response by an agreement to credit the subscriber’s account or refund the
14 disputed charge in its entirety; (iii) during the oral communication in which a subscriber initially
15 disputes a charge unless the dispute is resolved during that communication by an agreement to
16 credit the subscriber’s account or refund the disputed charge in its entirety; (iv) during any
17 subsequent communication about a disputed charge if crediting or refunding of the disputed
18 charge in its entirety has not occurred; (v) at any time after the initiation of service when
19 communicating in writing with subscribers about what they should do if their phone is lost or
20 stolen or if the subscriber disputes a charge, unless the communication is one in which the
21 service and the subscriber agreement are being summarized, subscribers are informed they can
22 suspend and restart their service at any time without cost, or clear and conspicuous
23 cross-reference to the information is also being provided; and (vi) with each subscriber’s bill, if
24 the bill does not provide both the information required under Public Utilities Code section
25 2890(d)(2)(B) with regard to how to resolve a disputed charge and a clear and conspicuous
26 cross-reference to the portion of the subscriber agreement that contains the information:

27 (1) subscribers are not responsible for charges they did not authorize;

28

1 (2) Defendants will carry out an investigation and within 30 days either credit the
2 subscriber's account or refund any amount paid for the disputed charge in full, or advise the
3 subscriber that Defendants have determined the disputed charge, in whole or in part, was
4 authorized and that a credit or refund for the full amount in dispute will not issue for that reason;

5 (3) the customer may submit to Defendants any documents, statements or other
6 information to show the charge was not authorized;

7 (4) if the subscriber is dissatisfied with the results of Defendants' investigation, the
8 subscriber may file a complaint asking the California Public Utilities Commission to investigate
9 and may have other legal rights, provided however, that to avoid confusion after a dispute arises
10 Defendants may wait until the investigation is completed (which may not be later than the 30
11 days as provided in sub-paragraph 11 (G)), before informing the customer of his complaint rights
12 under this sub-paragraph;

13 (5) while an investigation is pending the subscriber need not pay the disputed charge
14 or any associated late charges, the disputed amount will not be sent to collection, and no adverse
15 credit report will be made based on the disputed amount;

16 C. discouraging subscribers from having disputed charges investigated;

17 D. stating or implying in any communication with subscribers that failure to report
18 "immediately" "quickly" "as soon as possible" or in any other manner a lost or stolen phone
19 diminishes the subscriber's right to an investigation (provided, however, that so long as the
20 communication clearly does not so state or imply, Defendants may encourage customers in
21 writing to report a lost or stolen phone when it comes to the subscriber's attention, by such
22 means as, for example, highlighting the availability of cost-free service suspension and
23 restoration at a subscriber's request);

24 E. stating or implying in any communication with subscribers that a delay in
25 reporting a lost or stolen phone is a factor in determining whether disputed charges were
26 authorized, such as stating or implying in any communication with subscribers that failure to
27 report a LOSS "immediately" "quickly" or "as soon as possible" will limit the customers rights;
28 provided however, Defendants may state that an unexplained or unreasonable delay in reporting

1 a lost or stolen phone may be considered as evidence suggesting that the disputed charges, in
2 whole or in part, were in fact authorized;

3 F. stating or implying in any communication with subscribers that the subscriber's
4 right to either an investigation or to a favorable outcome to an investigation about disputed
5 charges is conditioned on the subscriber taking any of the following actions or requiring a
6 subscriber who disputes a charge to take any of the following actions: reporting a phone stolen to
7 a third party, submitting any particular document or corroboration, such as a police report of
8 theft, swearing under penalty of perjury a phone was lost or stolen, disputing the charges in
9 writing rather than through calling the ordinary customer service number available to subscribers
10 for questions about their bill, or taking any other particular action, provided however, that
11 Defendants may advise the subscriber that their determination of whether they find the disputed
12 charges were authorized or not may depend on the subscriber providing information to
13 corroborate the subscriber's contention that the phone was lost or stolen, so the subscriber should
14 provide whatever documents or other information the subscriber believes will support his/her
15 claim that the phone was lost or stolen;

16 G. unless a disputed charge is resolved by Defendants' agreement to credit the
17 subscriber's account or refund the disputed charge in its entirety (i) on the Defendants' own
18 initiative after becoming aware of unauthorized charges, or (ii) during the initial oral
19 communication about the disputed charge or, if the initial communication is in writing, in
20 Defendants' first response (and in connection with either (i) or (ii) completing the process so that
21 the subscriber receives the refund or credit as soon as technically feasible, but no later than the
22 date for issuance of the second regular bill after the disputed charge is resolved), failing to do
23 each of the following:

24 (1) carry out a reasonable investigation that considers any reasonably relevant
25 information available to show whether the charge was authorized;

26 (2) within 30 days from receipt of the dispute, credit or refund any amount billed
27 for an unauthorized charge, completing the process so that the subscriber receives the refund or
28

1 credit as soon as technically feasible but no later than the date for issuance of the second regular
2 bill after the disputed charge is resolved;

3 (3) within 30 days from receipt of the dispute, either credit or refund the disputed
4 charge, completing the process so that the subscriber receives the refund or credit as soon as
5 technically feasible but no later than issuance of the second regular bill after the account is
6 credited, or advise the subscriber that Defendants have determined the disputed charge, in whole
7 or in part, was authorized and a credit or refund would or would not be allowed;

8 (4) while an investigation is pending refrain from requiring payment of any
9 disputed charge, assessing any late charges, sending the disputed amount to collection, or
10 making any adverse credit report based on the disputed charge;

11 H. failing to ensure the provision of appropriate training in the requirements of this
12 Judgment to all Defendant's personnel who offer, provide, assist in providing, or discuss with
13 subscribers or potential subscribers in California, Defendants' telecommunications services or
14 disputed charges, including specifically all customer service personnel;

15 I. providing information, materials or training that is inconsistent with the terms of
16 this Judgment to any of Defendants' employees, agents or representatives or permitting conduct
17 that is inconsistent with the terms of this Judgment by any of Defendants' personnel;

18 J. at least twice in the first six monthly bills and beginning no later than 90 days
19 after entry of judgment, failing to call attention by clear and conspicuous notice to the
20 contractual changes being provided about unauthorized charges and lost and stolen phones and
21 by failing to include at least a portion of the notice which shall call attention to the contractual
22 changes on the first page of the bill near the "amount due" field. Subscribers who begin service
23 after entry of this Judgment but who are given contracts that fail to comply with the terms of
24 Paragraph 11 must be provided a revised contract or a clear and conspicuous addendum to their
25 contract that is in compliance with this Judgment no later than 90 days after entry of this
26 Judgment. Subscribers who begin service after this Judgment is entered and receive a subscriber
27 agreement that complies with Paragraph 11, need not be given notice under this sub-Paragraph.

28

1 K. In respect (1) to disputed charges that Defendants do not agree to resolve by
2 issuing a credit or refund of the disputed charge in its entirety during the oral communication in
3 which a subscriber initially disputes a charge or in the first responsive communication after
4 receiving the initial written communication in which a subscriber disputes a charge (so long as
5 the response is tendered within 20 days of receipt), or (2) to disputed charges which Defendants
6 do not in fact resolve by sending the consumer a refund as agreed in the initial communication or
7 entering a credit on the consumer's bill as agreed in the initial communication by the date for
8 issuance of the second regular bill after the disputed charge is resolved, failing to do the
9 following:

- 10 1. maintain records of disputes about unauthorized charges for four years from the
11 date Defendants are first apprized of a dispute;
- 12 2. for six months, beginning three months after October 31, 2007, provide to the
13 Attorney General every three months a report sufficient to show the date
14 Defendant learned of the dispute, the amount in dispute, the date Defendant
15 concluded its investigation, and the amount, if any, credited or refunded, and
16 within 30 days of a request by the Attorney General, provide any other dispute
17 records requested by the Attorney General regarding any or all of the disputes
18 referenced in the report;
- 19 3. for three years after the last date on which records are provided to the Attorney
20 General under subparagraph 11.K.2., provide copies of the dispute records to the
21 Attorney General within 30 days after a request to review the records; and
- 22 4. thereafter, make dispute records available in accordance with otherwise lawful
23 requests;

24 For purposes of this paragraph, “dispute records” or “records of disputes” include any evidence
25 of communications between Defendants and the subscriber about the dispute including written
26 communications and notes about oral communications, written information provided by the
27 subscriber, the information on which Defendants’ based their determination that the charges
28 were authorized, and documents sufficient to show the date Defendants learned of the dispute,

1 the amount in dispute, the date Defendants concluded their investigation, and the amount, if any
2 credited or refunded.

3 TIMING

4 12. This Judgment is effective on entry except as otherwise provided. The provisions
5 of sub- Paragraphs 11 B-K, shall be effective as of October 31, 2007.

6 RESTITUTION

7 13. Within 120 days after entry of Judgment, Defendants shall notify, in a clear and
8 conspicuous manner, in a form agreed to by the California Attorney General and included with
9 AT&T Mobility's monthly bill, each of its existing customers of their right to make a claim for a
10 credit to their account for disputed charges billed to, or via, a phone at any time from January 1,
11 2003, to date of notification. The notice shall include a description of their rights consistent with
12 Paragraph 11. Having tendered the dispute at or after the time the charges were incurred or at
13 any time before receiving notice of restitution under this Paragraph shall not be relevant or a
14 prerequisite to determining the validity of the claim. Defendants shall respond to claims made
15 under this Paragraph with the same standards and the same customer rights and remedies, and
16 with the same timeliness, as detailed in Paragraph 11. Those seeking restitution may contact
17 Defendants through its ordinary customer service process or through its website, at the
18 consumer's option, provided however, that Defendants may engage a third-party claim resolution
19 service approved by the Attorney General to whom subscribers seeking restitution may be
20 referred by means of (i) a Toll-Free number printed in the Restitution Notice, and (ii) by direct
21 transfer if the customer calls customer service. If the subscriber's records are no longer available
22 to customer service through the Defendants' database, Defendants do not violate this Judgment
23 by taking up to an additional 30 days to resolve the claim. If restitution is granted under this
24 Paragraph, Defendants shall determine whether the disputed charge had ever been the basis of an
25 adverse report to a credit bureau and if so, Defendants shall correct the record. In addition to any
26 other rights they may have to raise such a dispute, Customers notified under this sub-paragraph
27 shall have 90 days from notification to submit a claim under this Judgment.

1 is ordered to enter this Judgment forthwith.

2 **IT IS SO ORDERED.**

3

4 DATED: _____

JUDGE OF THE SUPERIOR COURT

5

6

7 SF2006601008

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

27

28